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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,930	02/12/2004	Adrian M. Romanyszyn	L-0170.99	5488
7590	10/03/2005		EXAMINER	
LAW OFFICES OF CHRISTOPHER L. MAKAY			BUSHEY, CHARLES S	
1634 Milam Building			ART UNIT	PAPER NUMBER
115 East Travis Street				
San Antonio, TX 78205			1724	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/777,930	ROMANYSZYN, ADRIAN M.
	Examiner	Art Unit
	Scott Bushey	1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 August 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13,18,19,21,24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 10-13 is/are allowed.
- 6) Claim(s) 1-9,18,19,21,24 and 25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____



DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 18, 19, 21, 24, and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 18, line 3, it is unclear as to what applicant intends to claim with respect to the phrase "chamber filler".

Also, claim 21 is a method claim that recites an apparatus limitation, i.e., "the film generator includes apertures", and a desired result, but does not recite a manipulative step.

Claims 24 and 25 are method claims that do not recite manipulative steps.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 18, 19, 21, 24, and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reynolds et al (Figs. 3, 4, and 12; col. 10, lines 25-44; col. 12, lines 28-54).

Applicant should note that the reference clearly discloses a carbonator including an oblong shaped housing (note 118 in Fig. 3), wherein the carbonation means thereof includes a carbon dioxide inlet (335) and a water inlet (325) and a carbonated water outlet (350). It should also be noted that hemispherical redirector (340) is placed relative to the liquid inlet to create a thin film of liquid upon cylindrical wall (302) to promote absorption of the carbon dioxide gas into the water. Applicant should note that instant claims 2-5, and 7-9 cannot be considered to carry patentable weight within an apparatus claim, since claims 2, 7, and 8 recite applicant's desired results, claims 3-5 recite materials worked on, and claim 9 recites a process limitation, none of which further limit the structure of the claimed apparatus.

With respect to instant claims 18, 19, 21, 24, and 25, Reynolds et al (Fig. 12) clearly disclose a hemispherical redirector (340) coupled at (342) to the cylindrical film generator (see col. 10, lines 32-44), wherein liquid is sprayed onto the inner surface of the redirector and splashed therefrom onto the cylindrical film generator. Applicant should note that instant claims 21, 24, and 25 cannot be considered to carry patentable weight since they do not recite a limiting manipulative step of the claimed method.

Allowable Subject Matter

5. Claims 10-13 are allowed.

The prior art of record fails to disclose or suggest a carbonator including a cylindrical film generator including apertures therein and a hemispherical redirector coupled to the cylindrical film generator, wherein a liquid inlet is disposed within the carbonator in a position such that liquid is directed onto the inner surface of the

hemispherical redirector and thus redirected onto the apertured cylindrical film generator where it forms a film to interact with gas that is input into the carbonator.

Response to Arguments

6. Applicant's arguments filed August 16, 2005 with respect to instant claims 1-9 have been fully considered but they are not persuasive.

Applicant argues that the Reynolds et al reference cannot be used to reject claims 1-9 in view of applicant's allegation that the reference fails to disclose an "oblong shaped housing". This is incorrect, since Reynolds et al clearly disclose an oblong shaped housing (118). In giving applicant's claims their broadest reasonable interpretation, as the Examiner must, applicant's claims clearly do not distinguish the claimed carbonator from the applied prior art.

7. Applicant's arguments with respect to claims 18, 19, 21, 24, and 25 have been considered but are moot in view of the new grounds of rejection.

Conclusion

8. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Bushey
Primary Examiner
Art Unit 1724

csb
9-29-05


9-29-05